

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

In re:

JOHN PAUL MURPHY
MARLENA PATRICIA MURPHY,

Debtors.

CHAPTER 13

CASE NO. 10-10645-RGM

PNC MORTGAGE, A DIVISION OF PNC
BANK, N.A., SUCCESSOR BY MERGER TO
NATIONAL CITY MORTGAGE, A DIVISION
OF NATIONAL CITY BANK,

Plaintiff/Movant.

vs.

JOHN PAUL MURPHY
AKA JOHN P. MURPHY
AKA JOHN MURPHY
MARLENA PATRICIA MURPHY
AKA MARLENA P. MURPHY
AKA MARLENA MURPHY
THOMAS P. GORMAN, TRUSTEE,

Defendants.

MOTION FOR RELIEF

NOTICE

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)

IF YOU DO NOT WISH THE COURT TO GRANT THE RELIEF SOUGHT IN THE MOTION, OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE MOTION, THEN WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE OF THIS MOTION, YOU MUST FILE A WRITTEN RESPONSE EXPLAINING YOUR POSITION WITH THE COURT AND SERVE A COPY ON THE MOVANT. UNLESS A WRITTEN RESPONSE IS FILED AND SERVED WITHIN THIS FOURTEEN (14) DAY PERIOD, THE COURT MAY DEEM OPPOSITION WAIVED, TREAT THE MOTION AS CONCEDED, AND ISSUE AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT FURTHER NOTICE OR HEARING.

IF YOU MAIL YOUR RESPONSE TO THE COURT FOR FILING, YOU MUST MAIL IT EARLY ENOUGH SO THE COURT WILL RECEIVE IT ON OR BEFORE THE EXPIRATION OF THE FOURTEEN (14) DAY PERIOD.

**ATTEND THE PRELIMINARY HEARING SCHEDULED TO BE HELD ON
JULY 20, 2011 AT 9:30 AM IN THE U. S. BANKRUPTCY COURT,
ALEXANDRIA DIVISION 200 SOUTH WASHINGTON STREET,
ALEXANDRIA, VIRGINIA, COURTROOM # 3, 3RD FLOOR.**

NOTICE FROM SAMUEL I. WHITE, P.C.

PURSUANT TO THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT, WE ADVISE YOU THAT SAMUEL I. WHITE, P.C., COUNSEL FOR THE PLAINTIFF, IS A DEBT COLLECTOR, ATTEMPTING TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN, AND ANY INFORMATION WE OBTAIN FROM YOU WILL BE USED FOR THAT PURPOSE.

MOTION FOR RELIEF

The Motion of PNC Mortgage, a Division of PNC Bank, N.A., successor by merger to National City Mortgage, a Division of National City Bank, by Counsel, hereby moves the Court for relief from the automatic stay and in support thereof represents unto the Court:

1. This Court has Jurisdiction over this proceeding pursuant to 28 U. S. C. Sections 157 and 1334 and 11 U. S. C. 362 (d), and that this matter is a core proceeding.

2. The Debtors filed a Petition under Chapter 13 of the Bankruptcy Code on January 28, 2010.

3. The Debtors are the owners of the real property located at 7684 Botha Road, Bealeton, VA 22712, which property is described as:

All that certain parcel of land and fronting on the Northerly side of State Route 661 about one-half mile East of Litchfield Church in Lee Magisterial District in the County of Fauquier and State of Virginia, being known and designated as follows:

Lot 6, Block B, Section II, Lake Opal Estates, according to a plat and survey by James G. Butler, Jr. C.L.S., dated July 15, 1977, of record on October 19, 1977 in Deed Book 352, Page 626 in the Office of the Clerk of the Circuit Court of Fauquier County.

4. Upon information and belief, Plaintiff is the holder and/or servicer of a certain Deed of Trust Note dated January 26, 2006, which Note is secured by a Deed of Trust of even date therewith and duly recorded.

5. The account is in arrears for 6 post-petition monthly mortgage installments, with the post-petition reinstatement through June 28, 2011 being \$14,567.95, calculated as follows:

1 monthly payment (01/01/2011) @ \$2,484.00/month	\$2,484.00
5 monthly payments (02/01/11-06/01/11) @ \$2,473.78/month	\$12,368.90
Accrued Late Charges	634.26
Property Inspection Fees	136.50
Bankruptcy Fees - Proof of Claim/Plan Review	250.00
Bankruptcy Fees and Costs - Motion For Relief	800.00
Less Debtors' Suspense	<2,105.71>
Total	\$14,567.95

6. The unpaid principal balance due on said note is \$315,993.25, and the present approximate payoff balance is \$342,050.00.

7. It is the opinion of the Plaintiff that the Debtors are financially unable to maintain said obligation and that Plaintiff will suffer irreparable injury, loss and damage if it is not permitted to foreclose upon its security interest; otherwise Plaintiff is without adequate protection.

WHEREFORE, Plaintiff prays that it be granted relief from the provisions of the automatic stay with regard to the said real property in order to pursue its rights pursuant to the terms of the Note and Deed of Trust, to include the initiation of foreclosure proceedings, and further requests that the fourteen (14) day stay be waived incident to any Order entered incident to the Motion for Relief herein.

PNC MORTGAGE, A DIVISION OF PNC BANK, N.A.,
SUCCESSOR BY MERGER TO NATIONAL CITY
MORTGAGE, A DIVISION OF NATIONAL CITY BANK

By: **/s/ ERIC DAVID WHITE**

Of Counsel
Samuel I. White, P. C.
Eric David White, Esquire, VSBN 21346
Randa S. Azzam, Esquire, VSBN 31539
Michael T. Freeman, Esquire, VSBN 65460
1804 Staples Mill Road, Suite 200
Richmond, VA 23230
Tel: (804) 290-4290
Fax: (804) 290-4298
ewhite@siwpc.com

CERTIFICATE

I hereby certify that a true copy of the foregoing Motion was served by regular mail or email this 28th day of June, 2011, on all necessary parties including Thomas P. Gorman, Trustee, 300 North Washington Street, Suite 400, Alexandria, VA 22314; James McMurray Johnson, Esquire, Counsel for Debtors, 9324 West Street, Suite 201, Manassas, VA 20110; and John Paul Murphy and Marlena Patricia Murphy, Debtors, 7684 Botha Road, Bealeton, VA 22712.

/s/ ERIC DAVID WHITE

Samuel I. White, P. C.